THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 21222 OF 2005

DATED: 04-10-2005

Between

M/s. The Amadalavalasa Co-operative Sugars Limited,

No.A.300, Amadalavalasa – 532 185, Srikakulam District, rep. by its Managing Director, Mr. S.L. Satyanarayana.

..... PETITIONER

And

The Commercial Tax Officer, Rajam and others.

..... RESPONDENTS

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ORDER: (per Sri B. Sudershan Reddy, J)

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for the Department and at their request, the matter is taken up for disposal at the stage of admission. Rule nisi.

This writ petition is directed against the order dated 23-06-2005 made in CCT's Ref.LV(3)/201/2005 on the file of the Additional Commissioner (CT) Legal, the 3rd respondent herein whereunder and whereby the stay petition filed by the petitioner herein was rejected. The petitioner sought for stay of further proceedings pursuant to the revisional order dated 08-06-2004 passed by the Deputy Commissioner (CT), Vijayanagaram division, the 2nd respondent herein pending disposal of the appeal preferred by it before the Sales Tax Appellate Tribunal, Hyderabad.

It is true, as submitted by the learned Standing Counsel for the Department, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India normally does not interfere with such interlocutory orders as the one impugned in this writ petition. But having regard to the facts and circumstances in this case, we are inclined to interfere with the order passed by the 3rd respondent. It is required to notice that the petitioner is a cooperative sugars limited in which admittedly 90% of the shares are held by the State Government. Secondly, similar question raised by the appellant herein is stated to be pending in a batch of appeals before the Sales Tax Appellate Tribunal. Normally, revisional authority ought not to have proceeded to dispose of the revision until the disposal of the appeals in which similar questions were coming up before the Tribunal. But the revisional authority in the instant case rejected the objection raised by the petitioner in the following manner:

> *"However, it is observed that the assessee is not one of the appellants in the alleged batch of appeals and mere pendency of appeal filed by the dealers other than the assessee cannot be an estoppel or restrain the undersigned to pass order basing on the material available on record in the case of the assessee. Hence the request of the assessee is not considered.*
>
> *Thus the contentions of the assessee are rejected as untenable and the sales under dispute worth Rs.17,04,280.00 are treated as auction sales in Andhra Pradesh liable to tax under APGST Act".*

Prima facie, the view taken by the revisional authority does not appear to be sustainable.

Having regard to these circumstances, we consider it appropriate to direct the respondents not to take coercive steps as against the petitioner – Society for realisation of the amounts due during the pendency of the appeal preferred by the petitioner in the Sales Tax Appellate Tribunal.

The Sales Tax Appellate Tribunal is directed to dispose of T.A No. 574 of 2005 as expeditiously as possible.

The Writ Petition is accordingly disposed of.

(B. Sudershan Reddy, J)

04..10..2005

(S. Ananda Reddy, J)

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